

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Adrian Marion Smith, #331894,)	
)	C/A No. 3:09-2786-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Warden John McCall; Captain Melvin)	
Boseman; Captain Tina Syphertt; Dennis)	
Patterson, Division of Operations; and)	
Major Marsh,)	
)	
Defendants.)	
_____)	

Plaintiff Adrian Marion Smith is an inmate in custody of the South Carolina Department of Corrections (SCDC) who currently is confined at the Allendale Correctional Institution in Fairfax, South Carolina. Plaintiff, proceeding pro se, filed a complaint on October 27, 2009, alleging that his constitutional rights were violated because (1) he was denied medical care after being injured while on a prison work crew; (2) he was transferred to a different SCDC institution; (3) his custody classification was downgraded; (4) he was denied access to the courts; (5) his mail was not processed correctly; (6) he was retaliated against; (7) he was illegally searched; and (8) his right to privacy was violated. Plaintiff contends that he is entitled to be pardoned by the President of the United States. Although it is not clear, Plaintiff may also assert state law claims. Plaintiff brings this action pursuant to 42 U.S.C. § 1983.

This matter is before the court on motion for summary judgment filed by Plaintiff on April 8, 2010. Defendants filed a response in opposition to Plaintiff's motion on April 22, 2010. Also before the court is Defendants' motion for summary judgment, which motion was filed on April 16, 2010. By order filed April 19, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975),

Plaintiff was advised of the summary judgment procedures and the possible consequences if he failed to respond adequately. Plaintiff filed a response in opposition to Defendants' motion on May 27, 2010, to which Defendants filed a reply on June 3, 2010.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. On February 18, 2011, the Magistrate Judge issued a Report and Recommendation in which he noted that (1) Plaintiff has no constitutionally recognized liberty interest in any particular custody classification or prison placement; (2) Plaintiff failed to establish that Defendants' actions or inactions regarding his medical care rose to the level of a constitutional violation; (3) Plaintiff failed to establish a claim for retaliation; (4) Plaintiff failed to show that his right to access to the courts had been violated because he has not shown any actual injury; (5) Plaintiff has no constitutional right to a presidential pardon; (6) Plaintiff has no expectation of privacy in his prison cell; (7) any verbal threats made by Defendants did not implicate constitutional concerns; and (8) Plaintiff has no constitutional right to grievance procedures in prison. The Magistrate Judge further noted that Defendants are entitled to Eleventh Amendment immunity in their official capacities. Accordingly, the Magistrate Judge recommended that Plaintiff's motion for summary judgment be denied, that Defendants' motion for summary judgment be granted, and that any state law claims asserted by Plaintiff be dismissed pursuant to 28 U.S.C. § 1367(c)(3). Plaintiff filed objections to the Report and Recommendation on March 3, 2011 and March 7, 2011.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo

determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

In his objections, Plaintiff essentially reiterates the allegations of his complaint and states that he objects to the entire text of the Report and Recommendation. The district court need not conduct a de novo review when a party makes only general and conclusory objections that do not direct the court to a specific error in the Magistrate Judge's proposed findings and recommendations. Orpiano v. Johnson, 687 F.2d 44, 47-48 (4th Cir. 1982).

Nevertheless, the court has thoroughly examined the record. The court adopts the Report of and Recommendation and incorporates it herein by reference. Plaintiff's motion for summary judgment (ECF No. 19) is **denied**. Defendants' motion for summary judgment (ECF No. 21) is **granted**, and the case dismissed, with prejudice.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

March 23, 2011.

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.